

**Draft Meeting Agenda  
South Dakota Board of Examiners of Psychologists  
Teleconference  
February 25, 2021, 9:00AM CST/8:00AM MST**

**The public is invited to attend the meeting. Please click on the following link** [SDBEP Public Meeting \(lcbhs.net\)](https://lcbhs.net) and then select temporary application. To connect Audio only from your phone – Please call (763)316-3486 and enter 4323423344 when prompted.

**Member Listing:**

1. Thomas Stanage, Ph.D., President
2. Matthew Christiansen, Ph.D., Vice-President
3. Trisha Miller, Ph.D., Secretary
4. Jeffrey Ellison, Psy.D., Member
5. Charles Sherman, Ph.D., Member
6. Robert Overturf, Lay Member
7. Brian Roegiers, Lay Member

**Purpose:** The Board protects the health and safety of the consumer public by licensure of qualified persons, enforcement of the statutes, rules and regulations governing the practice of psychology, including the appropriate resolution of complaints.

1. Call to Order/Welcome and Introductions-Stanage
2. Roll Call-Stanage
3. Conflicts to declare
4. Corrections or additions to the agenda
5. Approval of the agenda
6. Public Testimony/Public Comment Period-9:05 a.m.
7. Election of Officers
8. Approval of Minutes from November 16, 2020 and January 18, 2021
9. FY Financial Update
10. Online System/Records Retention Update
11. PSYPACT
12. Legislative Updates
13. Executive Session-Pursuant to SDCL 1-25-2

1. Complaints/investigations

- a. #217-I
- b. #218-I
- c. #223

2. Executive Secretary Contract Renewal

3. Oral Examinations:

**Applicants:**

**#611  
#614  
#615**

14. Applicant Approvals
15. Any other business coming in between date of mailing and date of meeting
16. Schedule next meeting
17. Adjourn

SOUTH DAKOTA BOARD OF EXAMINERS OF PSYCHOLOGISTS  
BOARD MEETING MINUTES  
Teleconference  
November 16, 2020

**Members Present:** Thomas Stanage, Ph.D., (President); Matthew Christiansen, Ph.D. (Vice President); Trisha Miller, Ph.D., (Secretary); Chuck Sherman, Ph.D., Member; Brian Roegiers, Lay Member; Robert Overturf, Lay Member (joined call at 12:05pm CDT); Jeffrey Ellison, Psy.D., Member (joined call at 12:55pm CST)

**Members Absent:** None.

**Others Present:** Carol Tellinghuisen, Executive Administrator; Jill Lesselyoung, Administrative Assistant; Trevor Thielen, Legal Counsel for the Board; Marilyn Kinsman, Senior Policy Analyst for South Dakota DSS; Roger Belisle, Ph.D.

**Call to Order/Welcome and Introductions:** Stanage called the meeting to order at 12:01pm CST.

**Roll Call:** Lesselyoung called the roll. A quorum was present (Stanage, Miller, Christiansen, Sherman, Roegiers).

**Conflicts to Declare:** None.

**Corrections or Additions to the Agenda:** None.

**Approval of the Agenda:** Christiansen motioned to approve the agenda as presented; Sherman seconded the motion. Motion carried on unanimous roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, absent; Sherman, yes; Overturf, absent; Roegiers, yes.

**Public Testimony/Public Comment Period (11:04am MST / 12:04pm CST):** Dr. Belisle made the board aware of his presence due to interest in the PSYPACT agenda item and stated desire to be involved in the discussion during that item.

**Approval of Minutes from August 21, 2020 Meeting:** Sherman moved, Christiansen seconded, to approve the minutes as written. Motion passed unanimously via roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, absent; Sherman, yes; Overturf, absent; Roegiers, yes.

Overturf joined the meeting at 12:05pm CST.

**FY Financial Update:** Lesselyoung reported on the most recent financial report – September 30, 2020. Lesselyoung reported that as of September 30, 2020, revenue was at \$9,021.47, year-to-date expenditures were at \$17,473.37, and Cash Balance was at \$110,664.59. Miller moved and Christiansen seconded motion to accept the financial report. Motion passed unanimously via roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, absent; Sherman, yes; Overturf, yes; Roegiers, yes.

**ASPPB, Annual Meeting – Virtual, October 16-17, 2020 – Recap:** Miller attended the virtual annual meeting as the South Dakota representative. Miller made board members aware that the two primary items discussed included 1) Procedural changes boards have experienced and/or implemented due to

COVID-19, including modifications to in-person supervision requirements for prospective licensees, meetings and/or oral exams conducted virtually vs in person, etc., 2) EPPP2 – who was involved in designing items and why items were chosen, only those individuals applying to states requiring the EPPP2 will be allowed to take it, etc. Miller made the group aware she voiced concern at the meeting about implications for mobility if individuals are only allowed to take it if they are initially applying to a state which requires the EPPP2.

**ASPPB Board Chairs Meeting - Virtual, October 22, 2020-Review:** Stanage attended the recent ASPPB Board Chairs Meeting. Stanage made the board aware of three main takeaways from the meeting: 1) Board chairs were provided with a number of licensure application forms developed by the Canadian board in response to COVID-19, to take into account the changes applicants may be seeing in their training process at this time. Stanage forwarded the documents to Miller (who provides the education reviews for the board as applications are received) who will review these further to determine if any changes to our current forms may be warranted, 2) EPPP2 – Stanage reported concerns and some anger was presented by board chairs with regard to ASPPB's limitations on applicants only being allowed to take the EPPP2 if they are applying to states who are adopting the EPPP2 in their requirements for licensure. Some states are seeing this as a coercive move by ASPPB to get states to adopt the EPPP2. Additionally, states brought up concerns about the implications the limitation may have on future mobility for those licensees not taking the EPPP2 in their initial state of licensure. 3) ASPPB has now released Guidelines for Use of Social Media that all are encouraged to review.

**Records Retention Update:** Lesselyoung made the board aware the board office has been reviewing the policy regarding the length of time currently required for retention of applicant files, complaints, etc. With consultation from DSS Administrative law judge (Schulte), it was determined that retaining hard copies of licensee files for five years beyond the most recent renewal application as well as storing records electronically (scan and store) for 40 years would be an appropriate timeline policy for our board purposes. Stanage inquired as to whether the board has an electronic storage option that will suffice for this purpose and Miller inquired about whether there are specific state requirements on how/where electronic storage must occur. Tellinghuisen and Lesselyoung stated perception the board computers are able to handle the electronic storage at present and that there is a nightly backup to the server in place. The capacity of storage is unknown, but Tellinghuisen and Lesselyoung will check this and report back if additional capacity is needed. Kinsman made the group aware that there is no state directive on how/where for the electronic storage, but that this determination lies with the board.

**PSYPACT – Proposed Regional Compact Update:** Dr. Roger Belisle, who is a SD licensed psychologist currently appointed as one of the 15 members of the SD Mental Health of First Responders Task Force, provided board members with some background information and statistics about mental health among those who serve as first responders. Concerns include the number of first responders diagnosed with PTSD and who experience suicidal ideation or completion. Many first responders are volunteers, so they do not have benefits that provide for counseling coverage, and accessibility to mental health professionals specialized to provide services to first responders is limited as there are not sufficient numbers of professionals with this niche in SD. Thus, the task force saw PSYPACT, which allows for interjurisdictional access to mental health professionals, as a possible aid to the current access to mental health care limitations in SD. Belisle stated knowledge that 15 states have already passed legislation to join PSYPACT and 13 additional states (including MN and IA) are in the legislative process in attempt to do so. Belisle inquired about the SD board's position on PSYPACT. Stanage made Belisle aware the board has not taken a specific stance, as currently the board is trying to understand the details and implications of PSYPACT for our state specifically. Miller made Belisle aware that financial concerns had also been a concern initially

about joining but that has since been resolved as other states were also having the same concern. Miller made Belisle aware, however, that some concern continues as there is no limitation on who outside providers serve to or who they don't – thus leaving the possibility for outside entities to market to the top-insured of the state whilst not providing help to those who need access most – our population served via Medicaid/Medicare. Stanage made it aware that SD has been approached about the option of a Regional Compact, which is being spearheaded by several groups in WY, to address smaller states' concerns regarding PSYPACT. Currently, the PSYPACT standards are overseen by ASPPB, for instance, whereas a regional compact would be directly overseen by the states involved. Also, the monetary exchange for PSYPACT goes to ASPPB rather than the states for managing the individual providers involved. Belisle stated his thanks for updating him on these developments and requested the contact information for the WY group, which Stanage agreed to provide to him following the meeting. Miller stated appreciation for Belisle's service on the task force looking into options for first responders. Stanage inquired about whether the task force has examined utilization of the already-existing CISM teams across the state. Belisle stated peer support has been examined as an option, though these tend to be more preventative in approach and they are looking at intervention once mental health difficulties are evident. Sherman inquired about the training being provided and what the theoretical orientation of individuals is. Belisle reported nationally standardized trainings are utilized, such as those through the ICISF, that are proven to be effective and financially viable, but not necessarily based on a set theoretical orientation. With regard to examining telehealth options, Stanage encouraged Belisle to examine the telehealth legislation passed three years ago which strongly encourages individuals seeking services to have a relationship with an in-state provider (particularly important for higher risk populations).

**Continuing Education Questions:** Lesselyoung made the board aware of several inquiries received by the board office following the mailing notifying licensees of the new CEU requirements. Some individuals were inquiring about whether required hours for this year would be prorated, given the October mailing. Others desired to clarify whether any other documentation other than a copy of the certificates are required. Another inquiry was in regard to whether there were certain types of CEU's not being accepted. Miller inquired as to whether the questions received have been added to the board's website in the FAQ's section. Lesselyoung stated a copy of the letter as well as the exact rules wording has been posted but an adjustment to the FAQ's section has not yet been made.

**Online Renewals Update:** Lesselyoung made the board aware that the board office has been working in close consultation with Kinsman/DSS with regard to determining a system to utilize. Lesselyoung explained consideration of going to the system with Albertson Construction wherein practitioners would be able to renew their licenses online, as well as make payments via credit card, update their address, and retrieve license verifications online. This would allow a more user-friendly way of conducting these transactions. The Board of Examiners of Psychologists would share costs for this system with the Social Work Board. Other DSS boards do also use the Albertson Consulting system. Stanage inquired if going with this system is the board office's recommendation, following all the options they've examined. Both Lesselyoung and Tellinghuisen agreed this system makes a lot of sense to transition to. Christiansen motioned and Sherman seconded, to approve implementation of the Albertson Consulting system. Motion passed on a unanimous roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, absent; Sherman, yes; Overturf, yes; Roegiers, yes.

Ellison joined the meeting at 12:55pm CST.

**Executive Session- Pursuant to SDCL-1-25-2:** Miller motioned and Ellison seconded to enter executive session at 12:56pm CDT for purpose of discussing three complaints/investigations (#217-I, #218-I, and #223). Motion carried on a unanimous roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes; Roegiers, yes.

Roegiers motioned, Sherman seconded, to exit Executive Session at 1:04pm CST. Motion carried on a unanimous roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes; Roegiers, yes.

Board members left the executive session call and redialed into the general meeting. Stanage called the general meeting back to order at 1:05pm CST Lesselyoung provided roll call; all members were present.

**Complaints/Investigations:** #217-I, #218-I, #223 are pending.

**Other Business:** None.

**Schedule Next Meeting/Conference Systems:** The next meeting, set to be a virtual meeting, was tentatively set for Thursday, February 25, 2021 at 8am MST/9am CST. Any business that needs to be addressed prior to this date will take place via teleconference.

Motion to adjourn was made by Sherman, seconded by Ellison. Stanage adjourned meeting at 1:10pm CST following unanimous roll call vote to do so. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes; Roegiers, yes.

Respectfully submitted,

Trisha T. Miller, Ph.D.  
Secretary

1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

SOUTH DAKOTA BOARD OF EXAMINERS OF PSYCHOLOGISTS  
BOARD MEETING MINUTES  
Teleconference  
January 18, 2021

**Members Present:** Thomas Stanage, Ph.D., (President); Matthew Christiansen, Ph.D. (Vice President); Trisha Miller, Ph.D., (Secretary; joined call at 12:07pm MDT); Chuck Sherman, Ph.D., Member; Brian Roegiers, Lay Member; Robert Overturf, Lay Member; Jeffrey Ellison, Psy.D., Member

**Members Absent:** None.

**Others Present:** Carol Tellinghuisen, Executive Administrator; Jill Lesselyoung, Administrative Assistant; Brooke Tellinghuisen Geddes, Administrative Assistant; Ryan Loker, Special Assistant Attorney General and New Legal Counsel for the Board; Dr. Kari Scovel, representing the South Dakota Psychological Association; Kristin Thayer, Executive Director of the South Dakota Psychological Association; Brenda Tidball-Zeltinger, Deputy Secretary – Department of Social Services.

**Call to Order/Welcome and Introductions:** Stanage called the meeting to order at 12:02pm MDT.

**Roll Call:** Lesselyoung called the roll. A quorum was present (Stanage, Christiansen, Sherman, Overturf, Roegiers, Ellison).

**Conflicts to Declare:** None.

**Corrections or Additions to the Agenda:** None.

**Approval of the Agenda:** Sherman motioned to approve the agenda as presented; Christiansen seconded the motion. Motion carried on unanimous roll call vote. Stanage, yes; Christiansen, yes; Miller - absent; Ellison, yes; Sherman, yes; Overturf, yes; Roegiers, yes.

**Public Testimony/Public Comment Period (1:05pm CST / 12:05pm MST):**

Stanage opened the public testimony and provided the background of the Board holding this meeting to get public input on the proposed PSYPACT legislation. He advised it is a model legislation which allows states to have licensees practice telepsychology under the compact and in person for 30 days in a calendar year. He advised the Mental Health of First Responders Task Force Committee has recommended to bring forth PSYPACT legislation this year. He advised PSYPACT is a 40-page document of model legislation which he understands would have to be adopted in total. Stanage stated a desire for input from other psychologists. Stanage made the group aware Tidball-Zeltinger would be presenting additional information later in the meeting.

Scovel presented the pros/cons of moving forward with PSYPACT in SD, from the perspective of SDPA board members. Scovel stated pros included a) the increased flexibility PSYPACT would allow psychologists in following patients who move out of state, go on vacation, leave for college in other states, etc., b) improved access to mental health care societally, c) improved access to specialists across providers in various states, etc. Scovel identified cons perceived were in regard to potential costs, cherry-picking by agencies or individuals and limited services provided to high-need, poverty populations, etc. Scovel stated SDPA board members were "pretty split" with regard to whether in favor of or against PSYPACT. Scovel acknowledged a mailed letter was sent to all licensed psychologists on Friday, as well as an electronic

letter/survey that was emailed on Friday (with input from Stanage as well). Results of the survey responses thus far are being tabulated to be presented later in the meeting. Scovel stated that regardless of whether enacting a telehealth compact or not, she feels strongly that a response to the concerns about a need for services for first responders must be formulated.

**PSYPACT-Proposed Regional Compact Update:** Miller stated agreement with Scovel that something, if not a compact, will need to be done in order to respond to the need the First Responders Task Force has brought up. Miller stated a more organized list of providers who could meet this need may be something that could be done regardless of what is decided in regard to PSYPACT. Stanage agreed the need must be addressed and thanked Scovel for the balanced presentation on the issue of PSYPACT. Tellinghuisen also commended Scovel's presentation of the pros/cons of PSYPACT.

**Legislative Updates:** Tidball-Zeltinger advised that SD DSS is supporting the proposed legislation in HB 1014, which proposes a consistent complaint procedure across state boards. DSS is assisting the Department of Labor and Regulation in the process of HB 1014 this legislative session. Tidball-Zeltinger stated the aim of HB 1014 is to establish more uniform guidelines and again consistency across the state's licensure boards. Stanage made Tidball-Zeltinger aware of the recent modifications to our board's complaint procedure (led by Robert Overturf), which are quite consistent with the proposals in HB 1014. Overturf provided feedback that in reviewing HB 1014, he questioned the wording of "one or more" persons making up a committee, wherein "one" individual does not seem to be a committee. Overturf stated that the rest of the bill appears consistent with our board procedures.

Tidball-Zeltinger advised board members of legislation "in the works" (but that has not officially been introduced to the legislature) for proposed licensure by endorsement for certain professions/occupations to aid in licensure mobility across states. Tidball-Zeltinger indicated some reasons for this legislation have come about due to lessons learned during the early phases of the pandemic; things that were put in place and are going well. Tidball-Zeltinger advised this legislation will allow for individuals licensed in other states who hold an equivalent license and are in good standing to be license-eligible in SD. She explained the legislation addresses a broad range of occupations, including but not limited to pharmacists, physicians, therapists, psychologists, etc. Stanage questioned that perhaps SD's counseling board does license by endorsement, but none present knew this for certain. Loker agreed to look into this.

Scovel provided results of the survey SDPA emailed to psychologists on Friday with regard to PSYPACT. A limited sample was acknowledged as seventeen psychologists have responded thus far. The majority (n=8) of the seventeen did respond stating they favored involvement in PSYPACT by SD and the majority indicated a willingness for licensure fees to increase to allow PSYPACT to be enacted, though specific items also did indicate some hesitance as well (concerns regarding costs of the e-passport required by the providers, responders were split with regard to favorability of a regional compact rather than involvement in a national compact). Survey responses cited both the reasons for being in support (e.g., affords the ability for psychologists to continue to provide services to patients who move due to military work commitments, college student moves, vacationers, etc.; ability to provide specialty services across states; ability for underserved populations to have greater mental health access; affords licensure equitability and standardization across state lines, etc.) as well as concerns (e.g., increased costs individually and to the state board, potential cherry-picking that could occur, potential for the underserved to continue to go underserved due to no regulation requiring service to the underserved, other states abusing power and not taking into account needs of rural populations, quality of care to SD residents by those out of state being questionable due to potentially not understanding the unique needs of rural culture, etc.).



**Adjournment:** Motion to adjourn was made by Ellison, seconded by Sherman. Stanage adjourned meeting at 1:54pm CST following unanimous roll call vote. Stanage, yes; Christiansen, yes; Miller, yes; Ellison, yes; Sherman, yes; Overturf, yes; Roegiers, yes.

Respectfully submitted,

Trisha T. Miller, Ph.D.  
Secretary

1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

BOARD OF PSYCHOLOGY EXAMINERS  
 REVENUE SUMMARY  
 FOR MONTH ENDING 06/30/20

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	4293000	0	0	0892000	654		2020	12	\$ 65,300.00	\$ 22,250.00
6503	4920045			0892000	654		2020	12	\$ 1,743.56	\$ -
									\$ 67,043.56	\$ 22,250.00

**BOARD OF PSYCHOLOGY EXAMINERS**  
**EXPENDITURE SUMMARY REPORT**  
**FOR MONTH ENDING 06/30/20**

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	ACCOUNT DESCRIPTION	FUND CENTER	SUB SRC	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	5204020	0	0	DUES & MEMBERSHIP FEES	0892000	654	2020	12	\$ 350.00	\$ -
6503	5204030	0	0	LEGAL DOCUMENT FEES	0892000	654	2020	12	\$ 612.00	\$ -
6503	5204090	0	0	MANAGEMENT CONSULTANT	0892000	654	2020	12	\$ 45,090.61	\$ 264.98
6503	5204201	0	0	BFM CENTRAL SERVICES	0892000	654	2020	12	\$ 1,273.93	\$ -
6503	5204204	0	0	RECORDS MGMT SERVICES	0892000	654	2020	12	\$ 298.80	\$ -
6503	5204207	0	0	HUMAN RESOURCES SERVICES	0892000	654	2020	12	\$ 356.28	\$ -
6503	5204510	0	0	RENTS-OTHER	0892000	654	2020	12	\$ 2,834.68	\$ -
6503	5204530	0	0	TELECOMMUNICATIONS SRVCS	0892000	654	2020	12	\$ 14.00	\$ -
6503	5204530	0	0	TELECOMMUNICATIONS SRVCS	0892000	654	2020	12	\$ 22.00	\$ -
6503	5204590	0	0	INS PREMIUMS & SURETY BDS	0892000	654	2020	12	\$ 1,338.47	\$ -
6503	5101030	0	0	BOARD & COMM MBRS FEES	0892000	654	2020	12	\$ 1,920.00	\$ 360.00
6503	5102010	0	0	OASI-EMPLOYER'S SHARE	0892000	654	2020	12	\$ 153.76	\$ 27.54
6503	5203030	0	0	AUTO-PRIV (IN-ST.) H/RTE	0892000	654	2020	12	\$ 2,205.42	\$ -
6503	5203100	0	0	LODGING/IN-STATE	0892000	654	2020	12	\$ 640.04	\$ -
6503	5203140	0	0	TAXABLE MEALS/IN-STATE	0892000	654	2020	12	\$ 90.00	\$ -
6503	5203150	0	0	NON-TAXABLE MEALS/IN-ST	0892000	654	2020	12	\$ 378.00	\$ -
6503	5205310	0	0	PRINTING-STATE	0892000	654	2020	12	\$ 69.00	\$ -
6503	5205320	0	0	PRINTING-COMMERCIAL	0892000	654	2020	12	\$ 1,225.27	\$ 52.73
									\$ 58,872.26	\$ 705.25

**BOARD OF PSYCHOLOGY EXAMINERS**

**CASH CENTER BALANCE**

**FOR MONTH ENDING 06/30/20**[illegible]

BOARD OF PSYCHOLOGY EXAMINERS  
 REVENUE SUMMARY  
 FOR MONTH ENDING 01/31/21

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	4293000	0	0	0892000	654		2021	07	\$ 8,250.00	\$ -
6503	4920045			0892000	654		2021	07	\$ 2,221.47	\$ -
									\$ 10,471.47	\$ -

BOARD OF PSYCHOLOGY EXAMINERS  
EXPENDITURE SUMMARY REPORT  
FOR MONTH ENDING 01/31/21

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	ACCOUNT DESCRIPTION	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	5204360	0	0	ADVERTISING-NEWSPAPER	0892000	654		2021	07	\$ 631.95	\$ -
6503	5204510	0	0	RENTS-OTHER	0892000	654		2021	07	\$ 1,600.00	\$ 200.00
6503	5204530	0	0	TELECOMMUNICATIONS SRVCS	0892000	654		2021	07	\$ 118.00	\$ 64.00
6503	5205320	0	0	PRINTING-COMMERCIAL	0892000	654		2021	07	\$ 557.43	\$ -
6503	5205350	0	0	POSTAGE	0892000	654		2021	07	\$ 26.35	\$ -
6503	5101030	0	0	BOARD & COMM MBRS FEES	0892000	654		2021	07	\$ 840.00	\$ -
6503	5102010	0	0	OASI-EMPLOYER'S SHARE	0892000	654		2021	07	\$ 64.26	\$ -
6503	5204020	0	0	DUES & MEMBERSHIP FEES	0892000	654		2021	07	\$ 350.00	\$ 350.00
6503	5204030	0	0	LEGAL DOCUMENT FEES	0892000	654		2021	07	\$ 618.00	\$ 618.00
6503	5204090	0	0	MANAGEMENT CONSULTANT	0892000	654		2021	07	\$ 29,408.10	\$ 3,704.47
6503	5204201	0	0	BFM CENTRAL SERVICES	0892000	654		2021	07	\$ 595.00	\$ -
6503	5204204	0	0	RECORDS MGMT SERVICES	0892000	654		2021	07	\$ 216.00	\$ 69.60
6503	5204207	0	0	HUMAN RESOURCES SERVICES	0892000	654		2021	07	\$ 360.48	\$ 162.19
										\$ 35,385.57	\$ 5,168.26

## CASH CENTER BALANCE

**FOR MONTH ENDING 01/31/21**

6503 1140000

0892000

654

2021

07

55

94,202.39

94,202.39



## 2021 South Dakota Legislature

**House Bill 1077**

HOUSE ENGROSSED

*Introduced by: The Committee on State Affairs at the request of the Office of the Governor*

- 1 **An Act to provide for licensure by endorsement for certain licensed professionals**  
2 **and occupations.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That a NEW SECTION be added:

5 **36-1C-1. Eligibility--Licensure by endorsement.**

6 Notwithstanding any existing provisions related to licensure by endorsement or  
7 licensure by reciprocity in any applicable licensing statute, a licensing board shall issue a  
8 license, certificate, registration, or permit to an applicant to allow practice in this state if,  
9 upon application to the licensing board, the applicant satisfies all of the following  
10 conditions:

- 11 (1) Holds a current license, certificate, registration, or permit from another state,  
12 territory, or country and the licensing board determines that state's, territory's, or  
13 country's requirements are substantially equivalent to or exceed the requirements  
14 established in this state;
- 15 (2) Demonstrates competency in the profession or occupation through methods  
16 determined by the licensing board, including having completed continuing  
17 education or having experience in the profession or occupation for at least two of  
18 the five years preceding the date of the application under this section;
- 19 (3) Has not committed any act that constitutes grounds for refusal, suspension, or  
20 revocation of a license, certificate, registration, or permit to practice that profession  
21 or occupation in this state unless the licensing board determines, in its discretion,  
22 that the act should not be an impediment to the granting of a license, certificate,  
23 registration, or permit to practice in this state;
- 24 (4) Is in good standing and has not been disciplined by the jurisdiction that issued the  
25 license, certificate, registration, or permit unless the licensing board determines,



- 1 in its discretion, that the discipline should not be an impediment to the granting of  
2 a license, certificate, registration, or permit to practice in this state; and  
3 (5) Pays any fees established by the licensing board by rules promulgated pursuant to  
4 chapter 1-26.

5 **Section 2.** That a NEW SECTION be added:

6 **36-1C-2. Provisional license--Duration.**

7 A licensing board may issue a provisional license, certificate, registration, or permit  
8 to an applicant for licensure by endorsement while the applicant is satisfying remaining  
9 requirements for the licensure by endorsement as determined by the board. The holder of  
10 a provisional endorsement license issued under this section may practice until any of the  
11 following occurs:

- 12 (1) A license, certificate, registration, or permit is denied by the licensing board under  
13 this section;  
14 (2) The expiration of the provisional endorsement license as established by the board  
15 by regulation; or  
16 (3) The holder of the provisional endorsement license fails to comply with the terms of  
17 the provisional license.

18 **Section 3.** That a NEW SECTION be added:

19 **36-1C-3. Application of chapter.**

20 Nothing in this Act may be construed to override, supersede, or invalidate any  
21 compact or agreement already in place with regard to the regulation of any profession  
22 under title 36.

23 **Section 4.** That a NEW SECTION be added:

24 **36-1C-4. Affected professions.**

25 The provisions of this Act apply to those practitioners licensed pursuant to chapters  
26 36-4, 36-4A, 36-4B, 36-4C, 36-9, 36-9A, 36-9C, 36-10, 36-10B, 36-11, 36-19, 36-26,  
27 36-27A, 36-29, 36-31, 36-32, 36-33, 36-34, 36-37, 36-38, and 34-11.



## 2021 South Dakota Legislature

**House Bill 1014**

HOUSE ENGROSSED

*Introduced by: The Committee on Commerce and Energy at the request of the Department of Labor and Regulation*

1 **An Act to establish uniform complaint and declaratory ruling procedures for**  
 2 **agencies regulating certain professions and occupations.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That a NEW SECTION be added:

5 **36-1C-1. Definitions.**

6 Terms used in this Act mean:

- 7 (1) "Administrator," the executive director, executive secretary, or other person  
 8 designated as being responsible for a professional or occupational licensing's  
 9 board, commission, or agency operation;  
 10 (2) "Agency," a professional or occupational licensing board, commission, or agency  
 11 set forth in title 36;  
 12 (3) "Complaint," an allegation of a violation of the laws or rules of a professional or  
 13 occupational licensing board, commission, or agency set forth in title 36;  
 14 (4) "Investigative committee," one or more persons employed or contracted by a  
 15 professional or occupational licensing board, commission, or agency set forth in  
 16 title 36 to review and investigate complaints;  
 17 (5) "License," any certification, license, permit, or other authorization related to the  
 18 practice of any profession or occupation regulated under title 36.

19 **Section 2.** That a NEW SECTION be added:

20 **36-1C-2. Complaints--Jurisdiction.**

21 Any person claiming that a licensee or an applicant for a license under title 36 has  
 22 engaged in or is engaging in conduct constituting grounds for disciplinary action, as  
 23 enumerated in the laws or rules of the agency, may file with the agency a written  
 24 complaint. The agency shall require the complaining party to file a complaint stating the  
 25 name of the applicant or licensee against whom the complaint is made and setting out, in

1 full detail, the conduct that is alleged to be in violation and may prescribe the form on  
2 which a written complaint is made.

3 The administrator shall request the complainant provide additional information if  
4 the complaint does not state a claim within the jurisdiction of the agency.

5 Failure of the complainant to comply with this section is basis for the administrator  
6 to reject the complaint without further action.

7 **Section 3.** That a NEW SECTION be added:

8 **36-1C-3. Receipt of complaint--Time to respond--Failure to respond.**

9 Upon receipt of a properly submitted complaint within the agency's jurisdiction, the  
10 administrator shall serve a copy of the complaint by mail or electronic mail upon the  
11 applicant or licensee complained against.

12 The applicant or licensee complained against shall send a response to the complaint  
13 to the administrator of the agency within twenty business days after service of the  
14 complaint on the applicant or licensee. Upon receipt of the response of the applicant or  
15 licensee, or upon expiration of the time for the applicant or licensee complained against  
16 to respond, the administrator shall assign an investigative committee to determine if the  
17 complaint has probable cause and constitutes grounds for disciplinary action or lacks  
18 probable cause and should be dismissed.

19 The twenty business days may be extended by the administrator for good cause.  
20 Failure to respond to the complaint is grounds for disciplinary action.

21 **Section 4.** That a NEW SECTION be added:

22 **36-1C-4. Investigation--Dismissal permitted.**

23 Upon completion of the investigation, the investigating committee shall  
24 recommend to the agency whether the complaint should be dismissed for lack of probable  
25 cause, resolved by informal disposition, or settled by a formal hearing. The failure of an  
26 applicant or licensee to comply with the investigation is grounds for denial of the  
27 application or disciplinary action.

28 An agency may allow the investigative committee to dismiss a complaint. Any  
29 dismissal by the investigative committee must be reported to the agency at its next  
30 scheduled meeting or within thirty days, whichever is shorter.

31 An investigative committee includes the agency's legal counsel.

32 **Section 5.** That a NEW SECTION be added:

1       **36-1C-5. Option to authorize limited administrative fines for specified**  
2       **violations.**

3           The agency may authorize the administrator to impose an administrative fine upon  
4       proof of a violation of specified statutes or rules without additional prior approval. Any  
5       action taken pursuant to this section shall be reported to the agency at its next scheduled  
6       meeting or within thirty days, whichever is shorter.

7           Any administrative fine issued under this section may be appealed by requesting a  
8       contested case under chapter 1-26. Notice of appeal must be submitted to the  
9       administrator within twenty calendar days of service of the fine.

10          Any fine issued under this section may not exceed five hundred dollars.

11       **Section 6.** That a NEW SECTION be added:

12           **36-1C-6. Informal disposition--Notice.**

13           The agency may accept an informal disposition regarding a violation of the laws or  
14       rules under the agency's jurisdiction. The agreed upon disposition must be in writing and  
15       is subject to the approval of the agency.

16           Failure to comply with the terms of an informal disposition is grounds for  
17       disciplinary action or allows the agency to institute or reinstitute formal proceedings.

18           The administrator shall notify, in writing, any complaining party of the results of  
19       the informal disposition of a complaint and the action taken, if any.

20       **Section 7.** That a NEW SECTION be added:

21           **36-1C-7. Formal complaint.**

22           If an alleged violation has probable cause constituting grounds for disciplinary  
23       action, the legal counsel for the agency may commence formal proceedings by serving a  
24       formal complaint by mail or electronic mail upon the applicant or licensee complained  
25       against.

26           The formal complaint must include the name of the applicant or licensee  
27       complained against, and a statement of facts setting forth the nature of the violations  
28       being charged that constitute grounds for disciplinary action.

29       **Section 8.** That a NEW SECTION be added:

1           **36-1C-8. Response to formal complaint.**

2           The applicant or licensee shall file an answer with the administrator within twenty  
3           calendar days after service of the complaint admitting, denying, qualifying, or explaining  
4           all facts alleged in the formal complaint and all defenses of the applicant or licensee or  
5           mitigating factors.

6   **Section 9.** That a NEW SECTION be added:

7           **36-1C-9. Notice of hearing.**

8           After the receipt of the response in § 36-1C-8, the agency's counsel shall file a  
9           notice of hearing pursuant to § 1-26-17. The notice of hearing must be served no later  
10          than twenty calendar days prior to the hearing date.

11          The agency may continue the date of the hearing as necessary. The agency's  
12          counsel shall serve notice of any new date by electronic mail to the applicant or licensee's  
13          address on file with the agency. If the applicant or licensee does not have electronic mail,  
14          communication shall be sent to the mailing address on file with the agency.

15   **Section 10.** That a NEW SECTION be added:

16          **36-1C-10. Appearance required of applicant or licensee.**

17          The applicant or licensee appearing before the agency at a formal hearing shall  
18          appear in person unless otherwise waived by the agency. If an applicant or licensee fails  
19          to appear, the hearing may proceed without the applicant or licensee.

20   **Section 11.** That a NEW SECTION be added:

21          **36-1C-11. Board or commission member disqualified.**

22          If an alleged violation against an applicant or licensee is filed by a member of the  
23          agency's board or commission, or if a member of the agency's board or commission  
24          participates in the investigation of a violation by an applicant or licensee, that agency's  
25          board or commission member is disqualified from participating in the final decision  
26          rendered by the agency board or commission.

27   **Section 12.** That a NEW SECTION be added:

28          **36-1C-12. Written waiver of procedures.**

29          An applicant for a license or licensee may, in writing, waive any procedure granted  
30          to the applicant or licensee under this chapter.

1        Notwithstanding any other provision of law, nothing in this chapter shall be  
2        construed to limit an agency's authority for emergency action under § 1-26-29.

3        **Section 13.** That a NEW SECTION be added:

4                **36-1C-13. Promulgation of rules.**

5                The Departments of Agriculture, Health, Labor and Regulation, and Social Services  
6        shall promulgate rules, pursuant to chapter 1-26, to make any consistent addition to the  
7        procedures in this chapter in order to comply with any federal statutes, rules, and  
8        regulations regarding a profession or occupation within their respective department.

9        **Section 14.** That a NEW SECTION be added:

10               **36-1C-14. Petition for declaratory ruling.**

11               A person seeking a ruling as to the applicability to that person of a law, rule, or  
12        order of an agency under title 36 may file with the agency a petition for declaratory ruling  
13        in substantially the following form:

14               Pursuant to the provisions of SDCL 1-26-15, I, (name of petitioner), of (address of  
15        petitioner), am (title or capacity of petitioner), and do hereby petition the professional or  
16        occupational board or commission of (state name of body) for its declaratory ruling in  
17        regard to the following:

18        (1) The statutes or rules or order in question is: (here identify and quote the pertinent  
19        statute, rule, or order.):

20        (2) The facts and circumstances that give rise to the issue to be answered by the  
21        professional or occupational board or commission's declaratory ruling:

22        (3) The precise issue to be answered by the professional or occupational board or  
23        commission's declaratory ruling:

24  
25               Dated at (city and state), this                      day of                      ,                      .

26  
27               \_\_\_\_\_  
28               (Signature of Petitioner)

29        **Section 15.** That a NEW SECTION be added:

1           **36-1C-15. Action on petition.**

2           Upon receipt of the petition, the administrator may request from the petitioner any  
3           information that may be required for the issuance of its ruling. At the agency's next  
4           regularly scheduled meeting following the receipt of the petition or following receipt of  
5           requested information, or within ninety days, whichever is shorter, the agency shall issue  
6           its declaratory ruling and serve a copy of it by mail or electronic mail upon the petitioner.

7   **Section 16.** That a NEW SECTION be added:

8           **36-1C-16. Appeal of declaratory ruling.**

9           Any person seeking a declaratory ruling hereunder, is considered aggrieved if,  
10          within thirty days of the agency's declaratory ruling, a request is made for the agency to  
11          conduct a formal hearing. The hearing must be held at the earliest convenience of the  
12          agency following the receipt of the request. A hearing under this section is a contested  
13          case under chapter 1-26.

14   **Section 17.** That § 36-4A-42 be AMENDED.

15          **36-4A-42. Promulgation of rules by board.**

16          The board shall promulgate rules pursuant to chapter 1-26 pertaining to fees,  
17          licensure of physician assistants, and supervision requirements, ~~and disciplinary~~  
18          proceedings.

19   **Section 18.** That § 36-4C-23 be AMENDED.

20          **36-4C-23. Investigation of violations.**

21          The board shall investigate every alleged violation of this chapter ~~and pursuant to~~  
22          the procedures set forth in chapter 36-1C. If the alleged violation is committed by a  
23          nonlicensee, the board shall report it to the proper law enforcement officials of the county  
24          wherein the alleged violation has occurred.

25   **Section 19.** That § 36-5-20 be AMENDED.

26          **36-5-20. Disciplinary committee--Immunity from liability--Conditions--**  
27          **Official immunity unaffected.**

28          ~~The~~ Notwithstanding any provision of chapter 36-1C, the Board of Examiners may  
29          act as a disciplinary committee or may appoint other chiropractors licensed to practice in  
30          this state to perform such functions to maintain the professional standards of the board.

1 No monetary liability on the part of, and no cause of action for damages may arise against  
2 any member of a duly appointed disciplinary committee for any act or proceeding  
3 undertaken or performed within the scope of the functions of the committee, if the  
4 committee member acts without malice, has made a reasonable effort to obtain the facts  
5 of the matter on which the member acts, and acts in a reasonable effort to obtain the  
6 facts. The provisions of this section do not affect the official immunity of an officer or  
7 employee of a public corporation.

8 The board may promulgate rules pursuant to chapter 1-26 governing the  
9 administration and enforcement of this section and the conduct of licensees, including:

- 10 (1) Purpose—~~The purpose of the~~ disciplinary committee;  
11 (2) Composition—~~The composition of the~~ disciplinary committee; and  
12 (3) Qualifications—~~The qualifications of the~~ disciplinary committee;  
13 (4) ~~Procedure governing the conduct of investigations and hearings by the disciplinary~~  
14 ~~committee.~~

15 **Section 20.** That § 36-9-21 be AMENDED.

16 **36-9-21. Promulgation of rules.**

17 The board shall promulgate rules pursuant to chapter 1-26 pertaining to:

- 18 (1) Licensing and licenses;  
19 (2) The practice of nursing;  
20 (3) Scope of nursing practice;  
21 (4) Except as otherwise provided in § 36-9-28, the delegation of nursing functions to  
22 unlicensed assistive personnel under the supervision of a licensed nurse;  
23 (5) Except as otherwise provided in § 36-9-28, the training, registration, and  
24 supervisory requirements for unlicensed personnel performing delegated nursing  
25 functions under the supervision of a licensed nurse;  
26 (6) ~~Disciplinary proceedings;~~  
27 (7) ~~Fees; and~~  
28 (8) ~~(7)~~ Approval of nursing education and clinical enrichment programs.

29 **Section 21.** That § 36-9A-41 be AMENDED.

30 **36-9A-41. Promulgation of rules.**

31 The board may promulgate rules pursuant to chapter 1-26 pertaining to: licensure  
32 and licenses, practice, prescriptive authority, ~~disciplinary proceedings,~~ and approval of  
33 education programs.



1     **Section 22.** That § 36-9C-32 be AMENDED.

2             **36-9C-32. Promulgation of rules.**

3             The board shall promulgate rules pursuant to chapter 1-26 pertaining to:

- 4             (1)    Licensing and licenses;
- 5             (2)    The practice and scope, pursuant to § 36-9C-13, of certified professional midwives
- 6                    and certified professional midwife students;
- 7             (3)    ~~Disciplinary proceedings;~~
- 8             (4)    Fees;
- 9             ~~(5)~~(4) Approval of certified professional midwife education programs; and
- 10            ~~(6)~~(5) Criteria for low-risk pregnancy and delivery.

11    **Section 23.** That § 36-10-49 be AMENDED.

12            **36-10-49. Investigation of violations--Employment of counsel to assist in**

13            **prosecution.**

14            The Board of Examiners ~~and/or~~ or the physical therapy committee, or both, shall

15            investigate every ~~supposed~~ alleged violation of this chapter, ~~and pursuant to the~~

16            procedures set forth in chapter 36-1C. If the alleged violation is committed by a

17            nonlicensee, the board shall report the same violation to the proper law enforcement

18            officials wherein the act is committed. The board ~~is authorized to~~ may employ special

19            counsel subject to the supervision, control and direction of the attorney general, ~~to~~ assist

20            in the prosecution of violations of this chapter, ~~and to~~ expend the necessary funds for such

21            purpose.

22    **Section 24.** That § 36-11-11 be AMENDED.

23            **36-11-11. Promulgation of rules .**

24            The Board of Pharmacy may promulgate rules pursuant to chapter 1-26 ~~as follows:~~

- 25            (1)    Pertaining to the practice of pharmacy;
- 26            (2)    Relating to the sanitation of persons and establishments licensed under the
- 27                    provisions of this chapter;
- 28            (3)    Pertaining to establishments licensed under the provisions of this chapter wherein
- 29                    any drug is compounded, prepared, dispensed or sold;
- 30            (4)    Providing for minimum equipment and standards of establishments licensed under
- 31                    the provisions of this chapter;
- 32            (5)    Pertaining to the sale of drugs by or through any mechanical device;

- 1 (6) In cooperation with other governmental agencies where there exists a joint
- 2 responsibility for protecting the public health and welfare;
- 3 (7) Pertaining to the sale of nonprescription drugs;
- 4 (8) To adopt such publications or supplements thereto as shall from time to time be
- 5 deemed necessary to describe the drugs, medicines, prescription drugs, dispensing
- 6 physician or other terms ~~used~~ defined in § 36-11-2;
- 7 (9) Pertaining to the posting of prescription prices on the premises of a pharmacy
- 8 department to provide consumers with comparative pricing information;
- 9 (10) Pertaining to registration of drug wholesalers and manufacturers;
- 10 (11) Pertaining to home health care and service;
- 11 (12) Pertaining to computerized pharmacy;
- 12 (13) Pertaining to the registration of registered pharmacy technicians ~~and the suspension~~
- 13 ~~or revocation of registration~~; an annual registration fee not to exceed thirty dollars;
- 14 and tasks that may not be delegated by a licensed pharmacist to a registered
- 15 technician;
- 16 (14) Redispensing of pharmaceuticals; and
- 17 (15) Pertaining to the dispensing of biological products.

18 **Section 25.** That § 36-18A-22 be AMENDED.

19 **36-18A-22. Board to promulgate rules--Scope of rules--Existing rules**  
20 **remain in effect.**

21 The board shall, pursuant to chapter 1-26, promulgate rules ~~which~~ that may be  
22 reasonably necessary for the performance of its duties, the regulation of proceedings  
23 before it, and the licensure of the professions it regulates. The existing rules promulgated  
24 under the previous chapter 36-18 remain in effect until replaced. The board shall  
25 promulgate rules, pursuant to chapter 1-26, for the licensure of professional engineers,  
26 architects, land surveyors, landscape architects, and petroleum release assessors and  
27 remediators in the following areas:

- 28 (1) Forms such as applications, renewals, licenses or certificates, and receipts for
- 29 applicants, licensed professionals, and business entities;
- 30 (2) Fees for applications, examinations, renewals, late penalties, lists and labels of
- 31 licensees, returned checks, reinstatement, inactive status, ability to allow a vendor
- 32 to collect fees for examinations, waiver of fees;
- 33 (3) Criteria for types of education degrees, approval of accredited programs, intern
- 34 programs, type of experience, length of experience, national and state specific

- 1 examinations, use of computer examinations, criteria from other countries,  
2 procedure to evaluate foreign degrees, eligibility of applicants, dual licenses;  
3 (4) Continuing professional education and development content, hours, carryovers, and  
4 requirements;  
5 (5) How, when, and where to seal plans and documents; type of seal; required services  
6 to be provided; and criteria to define complete plans, minimum standards of  
7 practice, and guidelines;  
8 (6) Description of and criteria for construction administration, including a designation  
9 of who is to perform construction administration and criteria for a prime professional  
10 or a coordinating professional;  
11 (7) Requirements for compliance with local building code; and  
12 (8) The adoption of a code of professional conduct;  
13 ~~(9) Procedures for disciplinary proceedings; and~~  
14 ~~(10) Procedures for contested cases pursuant to chapter 1-26.~~

15 **Section 26.** That § 36-19-9 be AMENDED.

16 **36-19-9. Officers of board--Scope of rules--Bond required of treasurer.**

17 The State Board of Funeral Service ~~shall have the power to~~ may elect, out of its  
18 own number, a president, a vice-president, and secretary-treasurer, and, pursuant to  
19 chapter 1-26, promulgate the rules as may be reasonable and proper to:

- 20 (1) Establish the minimum physical standards of licensees' funeral establishments;  
21 (2) Regulate the inspection of each funeral establishment;  
22 (3) Establish the educational, training, reciprocity and renewal requirements for  
23 licensure; and  
24 (4) However, the board may not regulate the method and manner of providing funeral  
25 service; ~~and~~  
26 ~~(5) Conduct investigations and implement disciplinary proceedings.~~

27 The treasurer of ~~such~~ the board shall give bond in the sum of five thousand dollars  
28 with sufficient sureties to be approved by ~~such~~ the board, conditioned for the honest and  
29 faithful discharge of ~~his~~ the treasurer's duties.

30 **Section 27.** That § 36-20B-41 be AMENDED.

**36-20B-41. Investigations--Probable cause determination--Subpoena power of board.**

The board may, upon receipt of a complaint or other information suggesting violations of this chapter or of the rules of the board, conduct investigations in accordance with chapter 36-1C to determine whether there is probable cause to institute proceedings under chapter 1-26 or of this chapter against any person or firm for such violation. However, no investigation under this section may be a prerequisite to ~~such the~~ proceedings ~~in the event that~~ if a determination of probable cause can be made without investigation. In aid of such investigations, the board or the chair thereof may issue subpoenas to compel witnesses to testify and to produce evidence.

**Section 28.** That § 36-20B-42 be AMENDED.

**36-20B-42. Investigating officer--Confidentiality of information.**

~~The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall file a report with the board. The board shall find probable cause or lack of probable cause upon the basis of the report or shall return the report to the investigating officer for further investigation. Unless there has been a determination of probable cause, If an investigation committee determines a complaint or other information suggesting a violation under § 36-20B-41 lacks probable cause,~~ the report of the investigating officer committee, the complaint, if any, the testimony and documents submitted in support of the complaint or gathered in the investigation, and the fact of pendency of the investigation ~~shall~~ must be treated as confidential information and may not be disclosed to any person except law enforcement authorities and, to the extent ~~deemed~~ considered necessary in order to conduct the investigation, the subject of the investigation, ~~persons~~ the person whose complaints are complaint is being investigated, and ~~witnesses~~ any witness questioned in the course of the investigation.

**Section 29.** That § 36-20B-43 be AMENDED.

**36-20B-43. Findings of investigation--Effect.**

~~Upon a finding of probable cause,~~ At the conclusion of the investigation under § 36-1C-4, if the subject of the investigation is a licensee or an individual with practice privileges under the provisions of § 36-20B-66 or 36-20B-67, the board staff shall proceed in accordance with chapter 1-26. If the subject of the investigation is not a licensee or an

individual with privileges under this chapter, the board shall take appropriate action under this chapter. Upon a finding of no probable cause, the board shall close the matter and shall thereafter release information relating thereto only with the consent of the person or firm under investigation.

**Section 30.** That § 36-20B-45 be AMENDED.

**36-20B-45. Issuance of complaint--Administrative hearing--Service of complaint and notice of hearing.**

If probable cause with respect to a violation by ~~a licensee or an~~ individual with practice privileges granted under the provisions of § 36-20B-66 or 36-20B-67 has been determined by the board, or upon receipt of notice of a decision by the board of another state furnishing grounds for a determination of probable cause, the board may issue a complaint setting forth appropriate charges and set a date for hearing before the board on such charges. If a complaint is issued and a hearing date set, the board shall, not less than thirty days prior to the date of the hearing, serve a copy of the complaint and notice of the time and place of the hearing upon the ~~licensee or an~~ individual with practice privileges granted under the provisions of § 36-20B-66 or 36-20B-67, together with a copy of the ~~board's rules governing proceedings under this section, either by personal delivery or by mailing a copy thereof by registered mail to the licensee at the licensee's address, last known to the board. In the case of an individual exercising practice privileges under the provisions of § 36-20B-66 or 36-20B-67, service~~ contested case proceedings under chapter 1-26. Service shall be by certified or registered mail to the address last known to the board, or pursuant to chapter 1-26.

**Section 31.** That § 36-20B-46 be AMENDED.

**36-20B-46. Respondent to have access to investigatory report and evidence.**

~~A licensee or an~~ An individual with practice privileges under the provisions of § 36-20B-66 or 36-20B-67 against whom a complaint has been issued under this section may, reasonably in advance of the hearing, examine and copy the report of investigation, if any, and any documentary or testimonial evidence and summaries of anticipated evidence in the board's possession relating to the subject matter of the complaint. The board shall adopt rules, promulgated pursuant to chapter 1-26, governing proceedings under this section to specify the manner in which such right may be exercised.

**Section 32.** That § 36-20B-47 be AMENDED.

1       **36-20B-47. Appearance at hearing--Examination and presentation of**  
2       **witnesses and evidence--Subpoenas.**

3       The respondent licensee ~~or an~~ shall appear at the hearing as required by § 36-1C-  
4       10. An individual with practice privileges granted under the provisions of § 36-20B-66 or  
5       36-20B-67 may appear at the hearing in person or, in the case of a firm, through a partner,  
6       officer, director, shareholder, member, or manager, and by counsel, examine witnesses  
7       and evidence presented in support of the complaint, and present evidence and witnesses  
8       on the licensee's or an individual's own behalf. The licensee or an individual granted  
9       practice privileges under the provisions of § 36-20B-66 or 36-20B-67 is entitled, on  
10      application to the board, to the issuance of subpoenas to compel the attendance of  
11      witnesses and the production of documentary evidence.

12     **Section 33.** That § 36-21A-89 be AMENDED.

13       **36-21A-89. Administration and enforcement of chapter--Promulgation of**  
14       **rules.**

15       The commission may promulgate rules pursuant to chapter 1-26 relating to the  
16       administration and enforcement of the provisions of this chapter in the following areas:

- 17      (1) Procedures for conducting the commission's business;
- 18      (2) Procedures and qualifications for application, minimum requirements for  
19          examination, procedures for the examination and the administration of the  
20          examination, the required score for passing the examination, and procedures for  
21          replacement of a license;
- 22      (3) Requirements for dividing a commission with a broker in another state,  
23          requirements for application for licensure by reciprocity and the practice of a  
24          nonresident licensee in the state;
- 25      (4) Procedures for application to provide classroom instruction or correspondence work  
26          for prelicensing education, qualifications of the instructors and facilities, and  
27          procedures for approving classroom instruction and correspondence work and for  
28          withdrawing the approval;
- 29      (5) ~~Procedures for disciplinary proceedings, including requirements for filing a~~  
30          ~~complaint, dismissal of a complaint, informal and formal resolution of a complaint,~~  
31          ~~formal complaint and answer requirements, final action and review, disqualification~~  
32          ~~of a commission member from a hearing and authorization for per diem and~~  
33          ~~mileage;~~
- 34      (6) ~~Procedures for declaratory rulings, petitions for rules and contested cases;~~

- 1       ~~(7)~~—Requirements for a real estate auction, use of unlicensed persons to call or take  
 2           bids, and the requirements, duties and responsibilities of an auctioneer;  
 3       ~~(8)~~~~(6)~~ Requirements for mortgage brokers, including areas such as trust accounts, record-  
 4           keeping, written contracts, full disclosure and restrictions on chargeable costs and  
 5           expenses;  
 6       ~~(9)~~~~(7)~~ Requirements for continuing education including procedures for granting a  
 7           certificate of accreditation; notification of a material change in an approved course  
 8           offering; suspension, revocation and denial of course approval; notice to students  
 9           regarding the course and opportunity for comment; auditing; certificates of  
 10          attendance; preregistration and limits on correspondence courses;  
 11       ~~(10)~~~~(8)~~     Requirements for property managers, including areas such as trust accounts,  
 12           auditing, contracts, disclosure, disciplinary matters, financial obligations and  
 13           records, and property management accounting; and  
 14       ~~(11)~~~~(9)~~     Requirements for establishing and maintaining teams and the requirements,  
 15           duties, and responsibilities of team leaders.

16   **Section 34.** That § 36-21B-3 be AMENDED.

17           **36-21B-3. Promulgation of rules.**

18           The secretary of the Department of Labor and Regulation may promulgate rules  
 19           pursuant to chapter 1-26 relating to appraisers and appraisals in the following areas:

- 20       (1)   Certification, licensing, and registration of appraisers;  
 21       (2)   Definition of terms;  
 22       (3)   Uniform standards of professional appraisal practice;  
 23       (4)   Application for and issuance of certificates;  
 24       (5)   Examinations and examination procedures;  
 25       (6)   Pre-certification education criteria and continuing education;  
 26       (7)   Qualifications for and upgrading of a certificate;  
 27       (8)   Transactions requiring certified, licensed, or registered appraisers;  
 28       (9)   Renewal and late renewal procedures;  
 29       (10)  Certificate by reciprocity;  
 30       (11)  Temporary practice and permits;  
 31       (12)  ~~Complaints and grounds~~ Grounds for disciplinary actions including denial,  
 32           revocation, suspension, censure, and reprimand;  
 33       (13)  Conflict of interest and investigation;  
 34       (14)  Advertising by certified, licensed, or registered appraisers;

- 1 (15) Retention and inspection of records, and rosters of appraisers;
- 2 (16) Appraiser membership, competency, and independence;
- 3 (17) Review of appraisals and contracting for investigations;
- 4 (18) Inspection, examination, and photocopy of appraisal records for audit purposes;
- 5 (19) Inactive status; and
- 6 (20) Exemptions and standards allowing appraisers to perform an evaluation for a
- 7 federally insured depository institution.

8 **Section 35.** That § 36-21C-6 be AMENDED.

9 **36-21C-6. Promulgation of rules for licensing and registration.**

10 The commission shall promulgate rules pursuant to chapter 1-26 for licensed and  
11 registered home inspectors in the following areas:

- 12 (1) Standards and requirements for prelicense and continuing education, including  
13 qualifications of instructors, procedures for granting a certificate of accreditation,  
14 notification of a material change in an approved course offering, suspension,  
15 revocation, and denial of course approval, certification of attendance,  
16 preregistration, and hours required to renew a license or registration;
- 17 (2) A code of ethics and standards of practice;
- 18 (3) Fees for applications, examinations, registration, licensure, and renewals, not to  
19 exceed two hundred dollars for application and one hundred dollars for renewal;  
20 and
- 21 (4) Procedures and qualifications for application, minimum requirements for  
22 examination, procedures for the examination and the administration of the  
23 examination, the required score for passing the examination, and procedures for  
24 replacement of a license;
- 25 ~~(5) Procedures for disciplinary proceedings, including requirements for filing a~~  
26 ~~complaint, dismissal of a complaint, informal and formal resolution of a complaint,~~  
27 ~~formal complaint and answer requirements, final action and review, disqualification~~  
28 ~~of a commission member from a hearing, and authorization for per diem and~~  
29 ~~mileage; and~~
- 30 ~~(6) Procedures for declaratory rulings, petitions for rules, and contested cases.~~

31 **Section 36.** That § 36-21D-4 be AMENDED.



**36-21D-4. Promulgation of rules regarding companies and services.**

The secretary of the Department of Labor and Regulation may promulgate rules pursuant to chapter 1-26 relating to appraisal management companies and appraisal management services ~~as follows~~ in the following areas:

- (1) Registration of appraisal management companies;
- (2) Definition of terms;
- (3) Responsibilities and duties;
- (4) Application for and issuance of certificate of registration;
- (5) Renewal and late renewal procedures;
- (6) ~~Investigation and contracting~~ Contracting for investigations;
- (7) Complaints and grounds for disciplinary actions, including denial, revocation, suspension, censure, and reprimand;
- (8) Retention and inspection of records;
- (9) Roster;
- (10) Review of appraisal related records;
- (11) Inspection, examination, and photocopy of records;
- (12) National registry fee collection and remittance; and
- (13) Filing of surety bonds or irrevocable letters of credit.

**Section 37.** That § 36-26-41 be AMENDED.

**36-26-41. Investigation and report of violations--Employment of special counsel--Expenses.**

The board shall investigate every ~~supposed~~ alleged violation of this chapter, ~~and pursuant to the procedures set forth in chapter 36-1C. If the board violation is committed by a nonlicensee, the board~~ shall report the same to the proper law enforcement officials wherein the act is committed. The board is authorized to employ special counsel subject to the supervision, control and direction of the attorney general, to assist in the prosecution of violations of this chapter and to expend the necessary funds for such purpose.

**Section 38.** That § 36-27A-34 be AMENDED.

**36-27A-34. Investigation and prosecution of violations.**

The Board of Examiners of Psychologists shall investigate every alleged violation of this chapter pursuant to chapter 36-1C. The board may employ special counsel, subject to approval, supervision, control, and direction by the attorney general, to assist in the

1 prosecution of violations of this chapter, and to spend the necessary funds for that  
2 purpose.

3 **Section 39.** That § 36-29-26 be AMENDED.

4 **36-29-26. Investigation and report of violations.**

5 The Board of Medical and Osteopathic Examiners shall investigate every ~~supposed~~  
6 alleged violation of this chapter ~~and pursuant to the procedures set forth in chapter 36-~~  
7 1C. If the alleged violation is committed by a nonlicensee, the board shall report the same  
8 to the proper law enforcement officials wherein the violation is committed.

9 **Section 40.** That § 36-31-22 be AMENDED.

10 **36-31-22. Investigation and report of violations.**

11 The board shall investigate every ~~supposed~~ alleged violation of this chapter ~~and~~  
12 pursuant to the procedures set forth in chapter 36-1C. If the alleged violation is committed  
13 by a nonlicensee, the board shall report the same to the proper law enforcement officials  
14 wherein the violation is committed.

15 **Section 41.** That § 36-32-80 be AMENDED.

16 **36-32-80. Complaints--Investigation--Dismissal--Hearing--Appeal.**

17 ~~The board shall receive complaints~~ Complaints regarding any person licensed under  
18 this chapter shall be processed pursuant to chapter 36-1C. A record of each complaint  
19 shall be maintained ~~by~~ in the board office.

20 ~~An~~ Notwithstanding any provision of chapter 36-1C, an investigation ~~shall~~ may be  
21 conducted by a member, agent, or an appointee of the board to determine whether the  
22 alleged violation has been committed. The investigator, if a member of the board, may  
23 dismiss a complaint if it appears to the member, in consultation with the board president,  
24 that no violation has been committed. If the investigator is an agent or an appointee of  
25 the board, dismissal of the complaint may only be made by the board president. Any  
26 disposition agreed upon between the investigator and the licensee or permit holder shall  
27 be made known to and approved by the board.

28 Any disciplinary proceeding ~~shall~~ must be conducted in accordance with chapter 1-  
29 26. Any decision of the board entered in a contested proceeding may be appealed to the  
30 circuit court within thirty days. A license or permit ~~shall remain~~ remains in effect during  
31 the pendency of an appeal, unless suspended under § 36-32-86.

1 **Section 42.** That § 36-32-89 be AMENDED.

2 **36-32-89. Violations reported to law enforcement officials--Prosecution of**  
3 **violations.**

4 The board shall investigate ~~and report~~ an alleged violation of any provision of this  
5 chapter, pursuant to the procedures set forth in chapter 36-1C, and report the alleged  
6 violation. The board may employ special counsel subject to the supervision, control, and  
7 direction of the attorney general to assist in the prosecution of alleged criminal violations  
8 and may expend the necessary funds for this purpose.

9 **Section 43.** That § 36-33-58 be AMENDED.

10 **36-33-58. Complaints--Investigation--Dismissal--Hearing--Appeal.**

11 The board shall receive complaints regarding the enforcement of the provisions of  
12 this chapter pursuant to the procedures set forth in chapter 36-1C. A record of each  
13 complaint shall be maintained by the board. ~~An investigation shall be conducted by a~~  
14 ~~member, agent, or an appointee of the board to determine whether an alleged violation~~  
15 ~~has been committed.~~

16 ~~The~~ Notwithstanding chapter 36-1C, the investigator, if a member of the board,  
17 may dismiss a complaint if it appears to the member, in consultation with the board  
18 president, that no violation has been committed. If the investigator is an agent or an  
19 appointee of the board, dismissal of the complaint may only be made by the board  
20 president. Any disposition agreed upon between the investigator and the licensee or  
21 permit holder shall be made known to and approved by the board.

22 Any disciplinary proceeding shall be conducted in accordance with chapter 1-26.  
23 Any decision of the board entered in a contested proceeding may be appealed to the circuit  
24 court within thirty days. A license or permit shall remain in effect during the pendency of  
25 an appeal unless suspended under § 36-33-64.

26 **Section 44.** That § 36-34-18 be AMENDED.

27 **36-34-18. Receipt and log of complaints--Investigation--Disciplinary**  
28 **proceeding.**

29 The board shall receive complaints concerning a practitioner's professional  
30 practices. Each complaint received shall be logged by the secretary-treasurer, or the  
31 board's designee, recording the practitioner's name, name of the complaining party, date  
32 of the complaint, a brief statement of the complaint, and its ultimate disposition. The

1 board shall investigate each alleged violation of this chapter pursuant to the procedures  
2 set forth in chapter 36-1C. All disciplinary proceedings held under the authority of this  
3 chapter ~~shall~~ must be conducted in accordance with chapter 1-26.

4 **Section 45.** That § 36-35-20 be AMENDED.

5 **36-35-20. Investigation of complaints--Inspections.**

6 The board ~~may~~ shall receive and investigate any complaint filed with the board  
7 alleging a violation of this chapter pursuant to the procedures set forth in chapter 36-1C.  
8 The board may inspect the place of business of the licensee named in a complaint during  
9 normal business hours or upon written notice.

10 **Section 46.** That § 36-36-12 be AMENDED.

11 **36-36-12. Promulgation of rules.**

12 The board shall promulgate rules pursuant to chapter 1-26 pertaining to fees,  
13 licensure, investigations, ~~disciplinary proceedings~~, and continuing education.

14 **Section 47.** That § 36-38-21 be AMENDED.

15 **36-38-21. Investigation of suspected violations--Prosecution of violations.**

16 The board shall investigate each suspected violation of this chapter ~~and pursuant~~  
17 to the procedures set forth in chapter 36-1C. If the suspected violation is committed by a  
18 nonlicensee, the board shall report the violation to the proper law enforcement official  
19 where the act is committed. The board is authorized to employ special counsel subject to  
20 the supervision, control, and direction of the attorney general to assist in the prosecution  
21 of violations of this chapter, and to expend the necessary funds for such purpose.

22 **Section 48.** That section 47 of this Act is repealed on July 1, 2024.

21.265.12 96th Legislative Session 400



## 2021 South Dakota Legislature

# Senate Bill 96

*Introduced by: The Committee on Health and Human Services at the request of the Office of the Governor*

**An Act to revise certain provisions regarding the use of telehealth technologies.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

**Section 1.** That § 34-52-1 be AMENDED.

### **34-52-1. Definitions.**

Terms used in this chapter mean:

- (1) "Health care professional," as defined in § 58-17F-1;
- (2) "Health care facility," any office or institution where health services are provided, including any hospital, clinic, ambulatory surgery center, outpatient care facility, nursing home, assisted living facility, laboratory, or office of a health care professional;
- (3) "Originating site," a site where a patient is located at the time health care services are delivered to the patient via telehealth;
- (4) "Store-and-forward technology," secure electronic information, imaging, or data, including audio, video, and data communication that is transferred or recorded or otherwise stored for asynchronous delivery of health care services to a patient; and
- (5) "Telehealth," the use of secure electronic information, imaging, and communication technologies by a health care professional to deliver health care services to a patient, including interactive audio-video, interactive audio with store and forward, store-and-forward technology, and remote patient monitoring. Telehealth does not include the delivery of health care services through electronic means under the provisions of chapter 27A-10, ~~or the delivery of health care services through an audio-~~

~~only telephone, electronic mail message, text message, mail service, facsimile transmission, or any combination thereof.~~

**Section 2.** That § 34-52-3 be AMENDED.

**34-52-3. Provider-patient relationship required--Exceptions.**

~~Telehealth may not be utilized by a health care professional with respect to any patient located in the state in the absence of a provider-patient relationship.~~ Any health care professional who utilizes telehealth shall ensure that a proper health provider-patient relationship is established and includes:

- (1) Verifying and authenticating the location and, to the extent reasonable, identifying the requesting patient;
- (2) Disclosing and validating the health care professional's identity and applicable credentials, as appropriate;
- (3) Obtaining appropriate consent for treatment from a requesting patient after disclosure regarding the delivery models and treatment methods or limitations;
- (4) Establishing a diagnosis through the use of acceptable medical practices, including patient history, mental status examination, physical examination, and appropriate diagnostic and laboratory testing;
- (5) Discussing with the patient the diagnosis and its evidentiary basis and the risks and benefits of various treatment options;
- (6) Ensuring appropriate follow-up care for the patient; ~~and~~
- (7) Providing a visit summary to the patient or consult note; and
- (8) Utilizing technology sufficient to evaluate or diagnose and appropriately treat a patient for the condition as presented in accordance with the applicable standard of care.

Exceptions to the requirements of this section include on-call, cross coverage situations, and consultation with another health care professional who has an ongoing health care provider relationship with the patient and agrees to supervise the patient's care and emergency treatment.

Catchlines are not law. (§ 2-16-13.1) Underscores indicate new language.

~~Overstrikethroughs~~ indicate deleted language.